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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/364,432	07/30/1999	WILLIAM M. NORR	W.M.NORR1	9444

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RYAN & MASON LLP
90 ROREST AVENUE
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EXAMINER

HAMILTON, MONPLAISIR G

ART UNIT	PAPER NUMBER
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2135

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/364,432

Applicant(s)

NORR, WILLIAM M.

Examiner

Monplaisir G Hamilton

Art Unit

2135

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 10 June 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-38.

Claim(s) withdrawn from consideration: _____.


8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

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Continuation of 5. does NOT place the application in condition for allowance because Applicant argues that Ramchandran does not explicitly disclose, "subbands of one or more digital sidebands of a carrier signal and that there is no teaching or suggestion "regarding multiple bitstreams being transmitted in subbands of such digital sidebands. Examiner disagrees with applicant. Ramchandran explicitly discloses that his system is able to generate 2-dimensional double sideband quadrature carrier, which is applied to a communication channel (col 7, lines 25-45; Fig. 14). Ramchandran further discloses that the information coded in the signals correspond to bit information for TV signals (col 7, lines 4-15). Examiner maintains that this disclosure teaches the claimed "multiple bitstreams being transmitted in subbands of one or more digital sidebands of a carrier signal".

Applicant further argues that there is "no cogent motivation and that the proposed combination appears to be based on a piecemeal reconstruction of the claimed invention, with the benefit of hindsight, rather than objective evidence. Examiner maintains that the motivation provided, in the Final Rejection, is proper. Ramchandran and Sakamoto each detail that their systems are used to transmit data at two distinct quality levels. Sakamoto differs from Ramchandran in that it details a method for encrypting the information transmitted over the communication channel. Examiner maintains that the evidence provided lead to an objective conclusion that the two systems are combinable and that the motivation stems from being able to transmit the same information at differing resolutions/quality levels.

Applicant also argues that Sakamoto actually teaches away from the proposed combination because "it teaches to utilize a scrambling and descrambling approach to differentiate high layer encoded signals from low layer encoded signals." Examiner maintains that the disclosed scrambling means teaches the claimed partially encrypted streams (col 2, lines 45-60). Sakamoto disclose various embodiments that enable varying level of security of the information being transmitted (col 2-5). Examiner maintains that the claimed invention is unpatentable in view of the teachings of Ramchandran and Sakamoto.



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